

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by adding  
5 Section 364.01 as follows:

6 (215 ILCS 5/364.01 new)

7 Sec. 364.01. Qualified cancer trials.

8 (a) No individual or group policy of accident and health  
9 insurance issued or renewed in this State may be cancelled or  
10 non-renewed for any individual based on that individual's  
11 participation in a qualified clinical trial.

12 (b) Qualified cancer trials must meet the following  
13 criteria:

14 (1) the effectiveness of the treatment has not been  
15 determined relative to established therapies;

16 (2) the trial is under clinical investigation as part  
17 of an approved cancer research trial in Phase II, Phase  
18 III, or Phase IV of investigation;

19 (3) the trial is:

20 (A) approved by the Food and Drug Administration;

21 or

22 (B) approved and funded by the National Institutes  
23 of Health, the Centers for Disease Control and  
24 Prevention, the Agency for Healthcare Research and  
25 Quality, the United States Department of Defense, the  
26 United States Department of Veterans Affairs, or the  
27 United States Department of Energy in the form of an  
28 investigational new drug application, or a cooperative  
29 group or center of any entity described in this  
30 subdivision (B); and

31 (4) the patient's primary care physician, if any, is  
32 involved in the coordination of care.

1 Section 10. The Health Maintenance Organization Act is  
2 amended by changing Section 5-3 as follows:

3 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

4 Sec. 5-3. Insurance Code provisions.

5 (a) Health Maintenance Organizations shall be subject to  
6 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,  
7 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,  
8 154.6, 154.7, 154.8, 155.04, 355.2, 356m, 356v, 356w, 356x,  
9 356y, 356z.2, 356z.4, 356z.5, 364.01, 367.2, 367.2-5, 367i,  
10 368a, 368b, 368c, 368d, 368e, 401, 401.1, 402, 403, 403A, 408,  
11 408.2, 409, 412, 444, and 444.1, paragraph (c) of subsection  
12 (2) of Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2,  
13 XIII, XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

14 (b) For purposes of the Illinois Insurance Code, except for  
15 Sections 444 and 444.1 and Articles XIII and XIII 1/2, Health  
16 Maintenance Organizations in the following categories are  
17 deemed to be "domestic companies":

18 (1) a corporation authorized under the Dental Service  
19 Plan Act or the Voluntary Health Services Plans Act;

20 (2) a corporation organized under the laws of this  
21 State; or

22 (3) a corporation organized under the laws of another  
23 state, 30% or more of the enrollees of which are residents  
24 of this State, except a corporation subject to  
25 substantially the same requirements in its state of  
26 organization as is a "domestic company" under Article VIII  
27 1/2 of the Illinois Insurance Code.

28 (c) In considering the merger, consolidation, or other  
29 acquisition of control of a Health Maintenance Organization  
30 pursuant to Article VIII 1/2 of the Illinois Insurance Code,

31 (1) the Director shall give primary consideration to  
32 the continuation of benefits to enrollees and the financial  
33 conditions of the acquired Health Maintenance Organization  
34 after the merger, consolidation, or other acquisition of

1 control takes effect;

2 (2) (i) the criteria specified in subsection (1) (b) of  
3 Section 131.8 of the Illinois Insurance Code shall not  
4 apply and (ii) the Director, in making his determination  
5 with respect to the merger, consolidation, or other  
6 acquisition of control, need not take into account the  
7 effect on competition of the merger, consolidation, or  
8 other acquisition of control;

9 (3) the Director shall have the power to require the  
10 following information:

11 (A) certification by an independent actuary of the  
12 adequacy of the reserves of the Health Maintenance  
13 Organization sought to be acquired;

14 (B) pro forma financial statements reflecting the  
15 combined balance sheets of the acquiring company and  
16 the Health Maintenance Organization sought to be  
17 acquired as of the end of the preceding year and as of  
18 a date 90 days prior to the acquisition, as well as pro  
19 forma financial statements reflecting projected  
20 combined operation for a period of 2 years;

21 (C) a pro forma business plan detailing an  
22 acquiring party's plans with respect to the operation  
23 of the Health Maintenance Organization sought to be  
24 acquired for a period of not less than 3 years; and

25 (D) such other information as the Director shall  
26 require.

27 (d) The provisions of Article VIII 1/2 of the Illinois  
28 Insurance Code and this Section 5-3 shall apply to the sale by  
29 any health maintenance organization of greater than 10% of its  
30 enrollee population (including without limitation the health  
31 maintenance organization's right, title, and interest in and to  
32 its health care certificates).

33 (e) In considering any management contract or service  
34 agreement subject to Section 141.1 of the Illinois Insurance  
35 Code, the Director (i) shall, in addition to the criteria  
36 specified in Section 141.2 of the Illinois Insurance Code, take

1 into account the effect of the management contract or service  
2 agreement on the continuation of benefits to enrollees and the  
3 financial condition of the health maintenance organization to  
4 be managed or serviced, and (ii) need not take into account the  
5 effect of the management contract or service agreement on  
6 competition.

7 (f) Except for small employer groups as defined in the  
8 Small Employer Rating, Renewability and Portability Health  
9 Insurance Act and except for medicare supplement policies as  
10 defined in Section 363 of the Illinois Insurance Code, a Health  
11 Maintenance Organization may by contract agree with a group or  
12 other enrollment unit to effect refunds or charge additional  
13 premiums under the following terms and conditions:

14 (i) the amount of, and other terms and conditions with  
15 respect to, the refund or additional premium are set forth  
16 in the group or enrollment unit contract agreed in advance  
17 of the period for which a refund is to be paid or  
18 additional premium is to be charged (which period shall not  
19 be less than one year); and

20 (ii) the amount of the refund or additional premium  
21 shall not exceed 20% of the Health Maintenance  
22 Organization's profitable or unprofitable experience with  
23 respect to the group or other enrollment unit for the  
24 period (and, for purposes of a refund or additional  
25 premium, the profitable or unprofitable experience shall  
26 be calculated taking into account a pro rata share of the  
27 Health Maintenance Organization's administrative and  
28 marketing expenses, but shall not include any refund to be  
29 made or additional premium to be paid pursuant to this  
30 subsection (f)). The Health Maintenance Organization and  
31 the group or enrollment unit may agree that the profitable  
32 or unprofitable experience may be calculated taking into  
33 account the refund period and the immediately preceding 2  
34 plan years.

35 The Health Maintenance Organization shall include a  
36 statement in the evidence of coverage issued to each enrollee

1 describing the possibility of a refund or additional premium,  
2 and upon request of any group or enrollment unit, provide to  
3 the group or enrollment unit a description of the method used  
4 to calculate (1) the Health Maintenance Organization's  
5 profitable experience with respect to the group or enrollment  
6 unit and the resulting refund to the group or enrollment unit  
7 or (2) the Health Maintenance Organization's unprofitable  
8 experience with respect to the group or enrollment unit and the  
9 resulting additional premium to be paid by the group or  
10 enrollment unit.

11 In no event shall the Illinois Health Maintenance  
12 Organization Guaranty Association be liable to pay any  
13 contractual obligation of an insolvent organization to pay any  
14 refund authorized under this Section.

15 (Source: P.A. 92-764, eff. 1-1-03; 93-102, eff. 1-1-04; 93-261,  
16 eff. 1-1-04; 93-477, eff. 8-8-03; 93-529, eff. 8-14-03; revised  
17 9-25-03.)

18 Section 15. The Voluntary Health Services Plans Act is  
19 amended by changing Section 10 as follows:

20 (215 ILCS 165/10) (from Ch. 32, par. 604)

21 Sec. 10. Application of Insurance Code provisions. Health  
22 services plan corporations and all persons interested therein  
23 or dealing therewith shall be subject to the provisions of  
24 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,  
25 149, 155.37, 354, 355.2, 356r, 356t, 356u, 356v, 356w, 356x,  
26 356y, 356z.1, 356z.2, 356z.4, 356z.5, 364.01, 367.2, 368a, 401,  
27 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7)  
28 and (15) of Section 367 of the Illinois Insurance Code.

29 (Source: P.A. 92-130, eff. 7-20-01; 92-440, eff. 8-17-01;  
30 92-651, eff. 7-11-02; 92-764, eff. 1-1-03; 93-102, eff. 1-1-04;  
31 93-529, eff. 8-14-03; revised 9-25-03.)

32 Section 20. The Illinois Public Aid Code is amended by  
33 changing Section 5-16.8 as follows:

1 (305 ILCS 5/5-16.8)

2 Sec. 5-16.8. Required health benefits. The medical  
3 assistance program shall (i) provide the post-mastectomy care  
4 benefits required to be covered by a policy of accident and  
5 health insurance under Section 356t and the coverage required  
6 under Sections 356u, 356w, and 356x of the Illinois Insurance  
7 Code and (ii) be subject to the provisions of Section 364.01 of  
8 the Illinois Insurance Code.

9 (Source: P.A. 90-7, eff. 6-10-97; 90-741, eff. 1-1-99.)